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October 4, 2010

Kim Collins, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 6381

Dear Ms Collins:

This letter constitutes the response of the American Hospital Association ("AHA") to the complaint filed with the Federal Election Commission ("FEC") by Richard L. Blank. AHA asks that this complaint be dismissed for failing to state a violation of the Federal Election Campaign Act of 1974, as amended (the "Act") or the FEC's regulations by AHA.

Mr. Blank's complaint states that "in April 2010 The A.H.A. ran several TV spots...These adds [sic] congratulated a political candidate, Mark Schauer, on voting for a bill...A photo of the congressman was shown. As he was rerunning for election this was clearly a political endorsement contribution for the congressman and the bill...."¹

AHA is a nonprofit corporation organized under Illinois law and exempt from taxation under Section 501(c)(6) of the Internal Revenue Code. In April 2010, AHA did, in fact, run advertisements that mentioned Congressman Mark Schauer. It was AHA's understanding at the time that Mr. Schauer was a candidate for re-election to the U.S. House of Representatives. To pay for these ads, AHA used its treasury funds. The advertisements discussed Congressman Schauer's vote on the recently passed health care reform bill that had been considered in Congress. The advertisement did not discuss Congressman Schauer's candidacy and did not contain any express advocacy of his election (or the defeat of his opponent). AHA did not coordinate the advertisements with Congressman Schauer, his campaign committee or any of his agents.

¹ Mr. Blank also appears to allege that payment for the ads involved the use of Medicare funds. This allegation does not deal with the subject matter of the Act so is not discussed in the response. In any event, AHA does not receive Medicare funds.

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AHA's payment for the advertisements involving Congressman Schauer was a legal exercise of its First Amendment rights. After the Supreme Court's decision in January 2010, incorporated entities, like AHA, could lawfully use treasury funds to pay for communications to the general public, not coordinated with any candidate, candidate's committee or candidate's agent, that referenced a federal candidate, whether or not the communication advocated the election of that candidate (or the defeat of the candidate's opponent). *Citizens United v. FEC*, 558 U.S. 50 (2010); 11 C.F.R. § 109.3(b).

AHA's ads fell squarely within this protected speech and, thus, did not violate any provision of the Act or the FEC's regulations. Attached to this response is an affidavit from Melinda Hatton, the General Counsel of AHA, which confirms, under penalty of perjury, the facts stated above.

Since the advertisements paid for by AHA do not violate the Act or the FEC's regulations, we ask that this complaint be dismissed and that the Commission take no further action.

If you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,



Judith L. Corley
Counsel to American Hospital Association

Enclosure